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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,014	11/14/2003	Chiaki Matsutori		8391

7590 05/18/2005
LORUSSO, LOUD & KELLY
3137 Mount Vernon Avenue
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EXAMINER

GEHMAN, BRYON P

ART UNIT PAPER NUMBER

3728

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/712,014	Applicant(s) MATSUTORI ET AL.	
	Examiner Bryon P. Gehman	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 8-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-7 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/04/04, 4/19/04</u> . | 6) <input type="checkbox"/> Other: _____ |

1. This application contains claims directed to the following patentably distinct species of the claimed invention: I) Figures 1-16; and II) Figures 17-25.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no allowable claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with George Loud on May 10, 2005 a provisional election was made with traverse to prosecute the invention of species I, claims 1-7. Affirmation of this election must be made by applicant in replying to this Office action. Claims 8-14 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.
3. The drawings are objected to because Figure 26 is not labeled as "Prior Art". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
4. The original specification does not appear to be in proper English. A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter.
5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims as written are not in idiomatic English and therefore indefinite. In claim 1, lines 2-3, "in condition that" does not make sense. In

line 4, "to close and seal inside" does not make sense. In line 5, "the lying container" lacks antecedent basis and also does not make sense. In line 8, "the opening part" lacks antecedent basis. In line 9, "to place the lid" does not make sense. In line 10, "on at least lower edge" is ungrammatical. In line 12, "in condition...is laid" is ungrammatical. In lines 13-14, the opposite part" lacks antecedent basis.

In claim 2, it is unclear how a plurality of lid supporters form a single protruding dovetail as recited. In lines 5-6, "the front side" lacks antecedent basis.

In claim 3, line 2, "the contacting portion" lacks antecedent basis for one such portion. In line 3, "inserted to" is indefinite phraseology. In lines 5-6, "the fixing plate" lacks antecedent basis. In line 9, "the lid supporter" lacks antecedent basis for one such element.

In claim 4, line 4, "to close and seal inside of" is ungrammatical. In lines 5 and 6, "lying to insert and pickup" is ungrammatical and indefinite. In line 8, "placed in" is indefinite" as to its meaning. In line 9, "the lying container body" lacks antecedent basis. In line 15, "the handle" is inconsistent with line 14.

In claim 5, line 3, "both side walls" lack antecedent basis.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

Art Unit: 3728

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

8. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujimori et al. (6,105,782). Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Kinpara et al. (6,186,331). Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Krampotich et al. (6,206,196). Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Nyseth et al. (6,464,081). Claims 1-2 are rejected under 35 U.S.C. 102(e) as being anticipated by Park (2003/0141217). Each discloses a thin plate storage container having a container body (1; 101; 5; 5; 102; respectively) and a lid (9; 105; 6; 6; 104), the container comprising a lid receptacle (at 15; at 103; at 7; at 7; 110), a plurality of lid supporters (18, 19; 117; 107; 107 or 62 or 66; 108) and a plurality of contacting portions (9, 16 or 31; 115; 105 or 106; 105, 106, 56 or 58; 200).

As to claim 2, each discloses the lid supporters each as a protruding dovetail (18, 19; 117; 107; 107 or 62 or 66; 108) to engage a dovetail groove (9, 16 or 31; 115; 105 or 106; 105, 106, 56 or 58; 200).

As to claim 3, Krampotich et al. and Nyseth et al. each disclose a fixing plate portion (11.6, 11.8) fixed on a lid engagement groove (28 and 30) and a contacting plate portion (15).

9. Claims 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Nyseth (5,788,082). Claims 4-5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Nigg et al. (6,779,667). Each discloses a thin plate storage container having a container body (50; 20; respectively) and a lid (28; 60), the container comprising a supporting member (52; 70, 170 or 270), a base plate portion (162; bottom of 70, 174 or 276), two side plate portions (32, 36; as shown) extending up from the base plate portion and two handles (128; 81 and as shown) placed at the two side plate portions.

As to claim 5, each discloses detents (134, 138; engaging portions, see column 4, lines 40-45).

As to claim 6, Nyseth discloses a conveying rail (22 or 164, 166).

As to claim 7, each discloses a positioning means (corresponding shapes of the base plate portion and container body; 164 and 166).

10. This application contains claims directed to the additional following patentably distinct species of the claimed invention: la) Figures 1-11 and lb) Figures 12-16.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no allowable claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim

is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

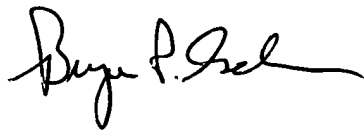
Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are analogous storage containers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-4555.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bryon P. Gehman
Primary Examiner
Art Unit 3728

BPG